

**REMARKS**

Upon entry of the present amendment, claims 1-21 remain in the application, of which claims 1, 10, and 17 are independent. Applicant has added new claims 20 and 21 herein.

After careful consideration of the objections and rejections set forth in the Office Action, applicant respectfully submits that as amended, claims 1-21 patentably distinguish over the art of record, and requests allowance of all pending claims, as discussed further below.

**In the Drawings:**

The drawings have been amended herein to address the objections put forth by the Examiner. No new matter has been added in the amendments to the drawings. Specific corrections are as follows:

- A. A replacement sheet has been provided for Figure 8 which labels this figure as "PRIOR ART".
- B. The Examiner objected to Figure 3 for not showing reference numerals 39 and 41, to correspond to the written description on page 6 of the specification. Both the specification and the drawing figures 2 and 3 have been amended herein to apply accurate and consistent reference numbers to the U-shaped rail portion 40 and a cross member 41 of the body member 23, and to the reinforcing ribs 38, 39 of the grip face member 24.
- C. Figure 4 has not been amended herein because paragraph 38 of the specification has been amended herein to recite the reinforcing ribs as having reference numbers 38 and 39. Thus Figure 4 and the specification now use consistent reference numbers to refer to like elements.

**In the Specification:**

The specification has been amended herein to obviate the objections to informalities cited by the Examiner. Specifically, paragraphs 48 and 49 have been amended herein to replace references to a specific claim with language that is more general in scope. For example, paragraph 49 now reads "According to another aspect of the invention...." The applicant believes that these amendments correct the cited informalities.

Paragraphs 35-38 of the specification have also been amended so as to reflect the reference numbers of elements of the invention as shown in the drawing figures. The application now provides a consistent disclosure so that both the specification and the drawing consistently refer to the U-shaped rail portion 40 and a crossmember 41 of the body member 23, and to the reinforcing ribs 38, 39 of the grip face member 24.

No new matter has been added to the application by the amendments to the specification.

**In the Claims:****Double Patenting**

In the above-identified Office Action, Claims 18 and 19 were objected to under 37 CFR 1.75 as being a substantial duplicate of claims 11 and 12. Claims 18 and 19 have been amended herein to correct improper dependencies. Claims 18 and 19 now depend from independent claim 17, and the objection is considered to be overcome.

**Claim rejections under 35 USC 102**

Also in the above-identified Office Action, the Examiner rejected claims 1, 2, 4-6, 8 and 9 under 35 USC 102(b) as anticipated by Chung.

The Examiner stated that the language relating the grip apparatus to the watercraft is considered to be an intended use of the grip apparatus, and that Chung discloses the claimed structure and can perform the intended use. The Examiner stated that Chung discloses a body member 12, having an H shaped cross section, a sculpted recess portion facing upwardly, a grip face member 4 which fits nestingly into the opening of the sculpted recess portion (having a tapered cross sectional shape), and has ribs (FIG. 5A,B) and a slip resistant texture.

The applicant respectfully disagrees with this rejection, because contrary to the Examiner's assertion, Chung does not disclose every feature recited in the claims.

The Standard for Anticipation

In the case of *Motorola, Inc. v. Interdigital Technology Corp.*, 121 F. 3d 1461 (CAFC 1997), the Court of Appeals for the Federal Circuit stated:

**"For a prior art reference to anticipate a claim, the reference must disclose each and every element of the claim with sufficient clarity to prove its existence in the prior art (citation omitted). 'The (prior art) reference must describe the applicant's claimed invention sufficiently to have placed a person of ordinary skill in the field of the invention in possession of it' (citations omitted). Although this disclosure requirement presupposes the knowledge of one skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read into the prior art reference teachings that are not there."**

The above-quoted passage is consistent with many previous cases of the Federal Circuit and with MPEP 2131, which reiterate the rule that in order to anticipate a claim, a reference must teach every element of the claim.

Applicant respectfully submits that Chung does not disclose each and every element of applicant's claimed invention. Chung does not disclose "a rear grip apparatus for a personal watercraft having a deck and a seat on a deck, said rear grip apparatus provided for placement behind the seat and for being grasped by a passenger..." as recited in independent claims 1, 10 and 17. In contrast, Chung discloses a handle for strollers. Further, the applicant respectfully asserts that this recitation is not merely intended use, as put forth by the Examiner.

However, due to the inferential nature of the recitation, and in order to promote the prosecution of the application, the applicant has amended independent claims 1, 10 and 17 herein to more positively recite the relationship between the grip apparatus and the seat of the watercraft.

Because Chung does not disclose each and every element of the invention as recited in claim 1, and because the handle of Chung is secured to the stroller at the respective distal ends of the handle, the applicant considers claims 1, 2, 4-6, 8 and 9 to be patentably distinct from the invention disclosed by Chung. Applicant therefore requests reconsideration and withdrawal of the rejection of these claims as anticipated by Chung.

#### Claim rejections under 35 USC 103

Also in the above-identified Office Action, the Examiner rejected Claims 3, 10-12, and 14-19 under 35 USC 103(a) as unpatentable over Chung in view of Emery, Jr. The Examiner stated that Chung does not disclose that the grip face members 4 are a product of injection molding, that Emery, Jr. teaches injection molding, and that it would have been obvious to form the blocks 4 of

Chung by injection molding to make them of a suitable plastic, since the cost of making the blocks of plastic would be less than making them of other materials.

The applicant respectfully disagrees with this rejection for the reasons stated above with respect to Chung. Chung does not disclose the recited features of the personal watercraft, including a seat and deck, and further does not disclose a rear grip apparatus secured to the watercraft. The modification of Chung to include the feature of forming the blocks 4 of Chung by injection molding as taught by Emery, Jr. does not correct the deficiencies of Chung.

Further, applicant respectfully suggests that both the Chung reference and the Emery reference are non-analogous art to the present invention. Chung teaches a baby stroller apparatus. Emery teaches a water ski bar for use by a water skier.

As further regards claims 10 and 17, these claims have been amended herein to more positively recite the relationship between the grip apparatus and the seat of the watercraft.

Because Chung does not disclose the recited features of the invention, because the handle of Chung is disclosed for a stroller, and no other uses for the handle are suggested or disclosed by Chung, and because the handle of Chung is secured to the stroller body at the respective distal ends of the handle, the applicant considers claims 1, 2, 4-6, 8 and 9 to be patentably distinct from the invention disclosed by Chung, and from the handle as modified by Emery, Jr.

Therefore, the applicant requests reconsideration and withdrawal of claims 3, 10-10, and 14-19 based on the combination of Chung and Emery, Jr., and respectfully asserts that claims 3, 10-10, and 14-19 are in condition for allowance.

Also in the above-identified Office Action, the Examiner rejected Claims 1, 2 and 4-9 under 35 USC 103(a) as unpatentable over Hattori et al. in view of Chung. The Examiner stated

that Hattori discloses a rear grip apparatus 49 for a personal watercraft including a body member, a generally U shaped rail portion and a bridge portion connecting the opposed legs of the rail portion to define a generally A-shaped member.

The Examiner further stated that Hattori does not disclose the rail portion as including a sculpted recessed portion, etc., but that Chung discloses a handle with a body member having the recited features. The Examiner stated that it would have been obvious to make the rail grip area of the grip apparatus 49 of Hattori et al similar to how the handle of Chung is made, that is, with a body member and grip face similar to those of Chung, the motivation for such modification being found in Column 1, lines 8-13 of Chung.

The applicant respectfully disagrees with this rejection because there is no motivation to modify a grip handle disclosed by Hattori to include a body member and grip face as taught by Chung. Although the Examiner refers to Column 1, lines 8-13 of Chung as a source of such motivation, the cited text discusses prior art stroller handles and the disadvantages thereof. Thus, the applicant respectfully suggests that Chung fails to provide any motivation for the modification of Hattori.

Hattori discloses a pair of small, low profile handles mounted on opposing sides of a raised pedestal 44 of the deck (col. 4, line 68). As seen in Figs 1 and 2, the handles 49 are mounted at a lower end of the pedestal 44 near the surface of rear deck 48, and are intended to allow provide a grip for the passenger entering the rear of the watercraft from the water (col. 5, lines 1-4). In addition, the deck surface and seat support of Hattori are designed to provide an unencumbered transversely extending foot area disposed in a rear deck positioned behind the seat (col. 2, lines 34+ and shown in figure 7), and thus the handles disclosed by Hattori do not extend into this area immediately behind the seat. This is clearly different than the invention claimed by the applicant.

Claim 1, as currently amended, recites a rear grip apparatus a body member comprising a substantially U-shaped rail portion extending from an area proximate a left rear portion of the seat to an area proximate a right rear portion thereof. This feature is not disclosed by Hattori et al, who show the handle 49 secured to the watercraft along an edge of the seat (Figs 1, 2, and 7) and oriented substantially vertically.

This feature is not disclosed or suggested by Hattori, or by Hattori as modified by Chung, since Chung discloses attachment of the handle to the stroller at the distal ends of the handle. Thus, claims 1, 2, and 4-9 are considered to be in allowable condition.

Further in the above-identified Office Action, the Examiner rejected Claims 3 and 10-17 under 35 USC 103(a) as unpatentable over Hattori et al and Chung as applied to claim 1 above, and further in view of Emery. The Examiner stated that the grip face members provided to Hattori et al in view of Chung are not a product of injection molding, and that Emery, Jr. teach forming his mating shells by injection molding. The Examiner took the position that it would have been obvious to form the blocks 4 of Chung provided to Hattori et al by injection molding to make them of a suitable plastic, since the cost of making the blocks of plastic would be less than making them of other materials.

The applicant respectfully disagrees with this rejection for the reasons stated above with respect to the rejection of claims 1, 2 and 4-9 under Hattori et al. in view of Chung. With respect to claims 1, 10, and 17, the applicant respectfully asserts that there is no motivation to modify a grip handle disclosed by Hattori to include a body member and grip face as taught by Chung.

As regards claim 10, this claim has been amended herein to recite that the grip face member extends behind the seat and adjacent a side edge thereof. This feature is not disclosed or

suggested by Hattori, who clearly teaches away from providing any structure in the deck area immediately behind the seat. This feature is not disclosed or suggested by Hattori as modified by Chung, since Chung only discloses the grip face (blocks 4) as disposed within the base portion of the U-shaped handle, and discloses the leg portions of the U-shaped handle as substantially free of the grip face member.

As regards claim 17, this claim has been amended herein to recite that the a body member comprises a substantially U-shaped rail portion extending from an area proximate a left rear portion of the seat to an area proximate a right rear portion thereof, and a bridge portion extending between legs of the rail portion. This feature is not disclosed by Hattori, whose handle is secured to the watercraft along an edge of the seat. This feature is not disclosed by Chung, who does not disclose a bridge portion between the two legs of the handle, or taught by Chung, who shows securement at the terminal ends of the legs of the handle.

Thus, the applicant considers claims 3 and 10-17 to avoid rejection under Hattori et al and Chung, in further view of Emery, and to be in condition for allowance.

#### Other Matters

New claims 20 and 21 have been added to the application which depend from independent claims 17 and 1, respectively. These claims recite the feature in which the grip face member extends about a rear portion of the seat adjacent to a side edge thereof. This feature is not disclosed or suggested by the cited prior art references, alone or in combination. New claims 20 and 21 are fully supported by the specification (please refer to Figures 1 and 2), and no new matter is added to the application.

#### Conclusion

Based on all of the foregoing, applicant respectfully submits that all of the objections and



rejections set forth in the Office Action are overcome, and that as presently amended, all of the pending claims are believed to be allowable over all of the references of record, whether considered singly or in combination.

Applicant requests reconsideration and withdrawal of the rejection of record, and allowance of the pending claims.

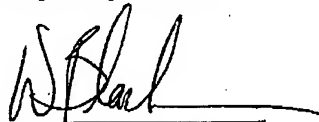
If the Examiner is not fully convinced of all of the claims now in the application, applicant respectfully requests that he telephonically contact applicant's undersigned representative to expeditiously resolve prosecution of the application.

The Commissioner is hereby authorized to charge the \$18.00 fee for one dependent claim in excess of twenty to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C.

A duplicate copy of this sheet is enclosed.

Favorable consideration is respectfully requested.

Respectfully submitted,

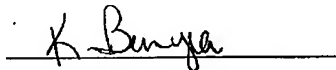


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Applicant requests reconsideration and withdrawal of the rejection of record, and allowance of the pending claims.

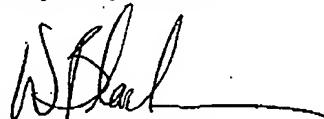
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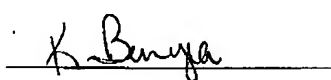


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